

COPY in 115

Open

1957

December 2

NEW HAMPSHIRE LAW LIBRARY

OCT 01 1998

CONCORD, N.H.

Adelard E. Cote, Commissioner
Labor Department
State House
Concord, New Hampshire

Dear Mr. Cote:

In your letter of November 25, 1957 you state that a certain bus company makes a practice of taking applications for employment and then giving the applicant a course of instruction, during which time the applicant receives no wages and employment is conditioned upon approval of the application. You inquire as to whether this practice is legal under the minimum wage law. I am assuming for purposes of this reply that during the so-called course of instruction the applicant is performing substantially the work of a regular employee and that the course of instruction covers an appreciable period of time.

It is our opinion that this practice is not permissible under the minimum wage law. RSA 279:22, as amended, provides for payment of less than the regular minimum wage to persons with less than six months experience in an occupation. However it is to be noted that even in that case there is a minimum below which the employer cannot go. If the Legislature had intended that during a certain period while a person is learning an occupation or trade it would be permissible to pay him no wages it seems that they would have so specified. The employer might raise the objection that a person in the position of the applicant in the instant case is not really an employee, but if such applicant is actually performing substantially the work of a regular employee we feel that he must be considered to be such within the meaning of the minimum wage law even though the employer may specifically state to him that he will not become an employee until they are satisfied of his qualifications.

Sincerely yours,

John J. Zimmerman
Assistant Attorney General

JJZ/lit